

# **Private School or Facility Special Education Program Services Approval Procedures**



**Idaho State Department of Education  
Special Education**

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#### Non-discrimination clause

Federal law prohibits discrimination on the basis of race, color, religion, sex, national origin, age, or disability in any educational programs or activities receiving federal financial assistance. (Title VI and VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; and the Americans with Disabilities Act of 1990.)

It is the policy of the Idaho State Department of Education not to discriminate in any educational programs or activities or in employment practices.

Inquiries regarding compliance with this nondiscriminatory policy may be directed to Sheri Ybarra, State Superintendent of Public Instruction, P.O. Box 83720, Boise, Idaho 83720-0027, (208) 332-6800, or to the Director, Office for Civil Rights, Department of Education, Washington, D.C.

## **PRIVATE SCHOOL OR FACILITY SPECIAL EDUCATION PROGRAM SERVICES APPROVAL PROCEDURES**

### **OVERVIEW**

Idaho's local education agencies (LEAs), consisting of school districts and public charter schools, are required to provide a free appropriate public education (FAPE) to eligible special education students ages 3 through 21. If a student's special education and related services cannot be provided by a LEA, it may contract with an approved private school or facility to provide FAPE in accordance with the Individuals with Disabilities Education Act (IDEA). LEAs are required to ensure that each student receives all services specified on the student's individualized education program (IEP) regardless of who provides the services.

An approved private school or facility must notify the Idaho State Department of Education (SDE) and the LEA it contracts with of any major changes to the program that occur during the approval period, any program changes that may affect its ability to perform the terms of the contract, and any complaints against the private school or facility regarding the provision of services to eligible students. Any private school or facility that is unable to continue to provide services in accordance with state and federal special education requirements will be removed from the state approved list.

### **AUTHORITY**

Federal law requires states to have a process for ensuring that eligible students who are placed in or referred to a private school or facility by a LEA are provided special education and related services in conformance with the student's IEP, at no cost to parents and that meets state standards (34 CFR 300.146).

Idaho Code 33-2004 authorizes LEAs to contract for special education services with "any private or public rehabilitation center, hospital, corporation, or state agency" that has been approved by the SDE.

The SDE is required to monitor all private schools and facilities that provide special education services to students with disabilities for compliance with governing special education requirements and adopted policies and procedures (IDAPA 08.02.03.109.02.b). The SDE may approve a private school or facility to provide special education services upon application to the SDE if the private school or facility:

1. Is an accredited school or a licensed rehabilitation center; and
2. Meets minimum health, fire and safety standards; and
3. Is nonsectarian; and
4. Provides special education services consistent with governing special education requirements (IDAPA 08.02.03.109.02.d).

Each LEA contracting with a private school or facility for the purposes of providing special education services is required to ensure that the private school or facility is approved by the SDE (IDAPA 08.02.03.109.02.d).

## **DEFINITIONS**

**Accredited or accreditation** means a school has successfully completed the accreditation process of the Northwest Accreditation Commission (NWAC), a division of AdvancED. Schools with current accreditation are reviewed on a 5-year cycle for compliance with Standards for Quality by a trained external review team of Idaho educators.

**Annual IEP Review** means a review of each child's placement in a private school or facility special education program based on the results of a comprehensive review by the Individualized Education Program (IEP) Team to determine the child's progress toward meeting the IEP goals and objectives, consideration of least restrictive environment, and continued need for placement.

**Certificated Staff** means a person who holds a valid Idaho teaching or administrative certificate or holds an Idaho license in one of the related service areas.

**Evaluation** is a broad term that encompasses the assessment process as well as what the evaluation team does with assessment and related information within the context of identification, placement and appropriate programming questions.

**Facility** means a licensed private or public rehabilitation center, hospital, corporation or state agency approved by the Idaho State Department of Education to provide special education services.

**Idaho Special Education Manual** means the manual developed by the Idaho Department of Education which all school districts and charter schools in Idaho have adopted as policy.

**Idaho State Department of Education (SDE)** is the state education agency primarily responsible for the supervision of public elementary and secondary schools in Idaho.

**Individualized Education Program (IEP)** is a written document (developed collaboratively by parents and school personnel) that outlines the special education program for a student with a disability. This document is developed, reviewed and revised at an IEP meeting at least annually.

**Least Restrictive Environment (LRE)** is an IDEA requirement that students with disabilities, including those in public or private institutions or other care facilities, are educated with children who are non-disabled to the maximum extent appropriate.

**Local Education Agency (LEA)** means a school district or a charter school authorized by state law to provide educational services to public elementary or secondary students.

**On-site Program Review** is a review by the State Department of Education, Bureau of Special Education, using interviews, observations, and review of records to determine if the private school or facility is implementing its programs consistent with standards.

**Placement** consists of the appropriate educational services identified for a specific student provided in an appropriate setting in accordance with state and federal law. Placement must occur in the least restrictive environment (LRE) for a student based on the individual needs.

**Private school:** A nonpublic school that is not funded by and is not under federal or state control or supervision.

**Rehabilitation Center** includes any licensed private or public rehabilitation center, hospital, corporation or a state agency approved by the Idaho State Department of Education.

**Related Services** refers to transportation and such developmental, corrective and other supportive services required to assist a student with disabilities to benefit from special education and includes speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, therapeutic recreation, early identification and assessment of disabilities in children, counseling services, rehabilitation counseling, orientation and mobility services, medical services for diagnostic or evaluation services, school services and social work services in schools.

**Special Education** means adapting the content, methodology or delivery of instruction to address the unique needs of an eligible student and to ensure access to the general education curriculum so that the student can meet the education standards of that district that apply to all students.

## **PLACEMENT REQUIREMENTS**

The following placement requirements apply:

1. A LEA may not place a student in a special education program for special education services operated by a private school or facility unless the private

school or facility has been approved by the Idaho State Department of Education for the purposes of providing special education and related services.

2. A state agency and a LEA may not jointly place a child in a special education program for special education services, unless the private school or facility has been approved by the Idaho State Department of Education **and it has been determined by the IEP Team of the sending LEA** to be an appropriate and least restrictive placement.
3. A state agency may not place a child in a private special education program **for special education services**, unless the private school or facility has been approved by the Idaho State Department of Education and the state agency accepts financial responsibility for the placement.

## APPROVAL PROCESS

In order for the special education services program of a private school or facility to be approved by the Idaho State Department of Education, the entity must:

1. Be a private school accredited by the Northwest Accreditation Commission (NWAC), a division of AdvancED or be a licensed rehabilitation center. The applicant must submit verification of accreditation or licensing approval along with a completed copy of the Private School or Facility Special Education Program Services Application Packet. A private school or facility that is not properly accredited or licensed must complete the approval process prior to seeking Private School or Facility Special Education Program Approval.
2. If the private school or facility has more than one site, an application for each site that will provide special education services must be completed and submitted to the SDE.
3. Provide education instructional programs for children with disabilities as defined in the Individuals with Disabilities Education Act (IDEA) that are at least comparable to public schools in Idaho.
4. Provide an instructional program description which includes:
  - a. Demographic description of students, including number, ages, and types of disabilities of students;
  - b. Procedures for maintaining, evaluating, and recording student progress;
  - c. List of licensed/certificated personnel (**submitted annually by** **\_\_\_\_\_**); and
  - d. Description of parental involvement in student programs.

- e. Description of the attendance reporting system utilized to certify to the LEA the daily record of attendance of each contracted student.
- 5. Provide appropriately certificated or licensed related service staff to meet the needs of the children to be served by the facility.
- 6. Use facilities that conform to state and federal regulations.
- 7. Accept all areas of responsibility consistent with those of state and federal regulations concerning instructional programs, confidentiality requirements, and procedural safeguards.
- 8. Maintain liability insurance at each site which meets or exceeds the requirements for governmental entities as set forth in Idaho Code 6-924.
- 9. Maintain an accounting system and budget for the approved educational program that includes the costs of operation, maintenance, transportation, related services, and capital outlay and ensures the funds provided are used for the students for whom they are contracted. The account system and budget shall be available for review by the SDE and contracting LEAs upon request.
- 10. Provide notification to contracting LEAs, state agencies, and the Idaho State Department of Education of any changes in certificated staff or programs within three (3) working days.
- 11. Provide notification to contracting LEAs, state agencies, and the Idaho State Department of Education of any relocation of building facilities within ten (10) working days.
- 12. Provide special education teachers in each classroom or program area who hold a valid Idaho Exceptional Child Certificate.
- 13. Identify the administrative personnel, such as a principal, special education director or other school administrator, certificated in an administrative area, to the extent the private school or facility has elected to retain such individuals.
- 14. Adopt and implement the Idaho Special Education Manual 2016 and any subsequent amendments as the policies and procedures for special education in the private school or facility. These policies and procedures will be the standards against which the private school or facility will be monitored.

## **INITIAL APPROVAL PROCESS**

1. The private school or facility completes the application packet, which can be accessed at: \_\_\_\_\_
2. The private school or facility submits the completed and signed application packet to the SDE (See application packet for required documents and assurances.)
3. The SDE will review the application, and if complete, will schedule an on-site program review of any private school or facility requesting approval. This on-site program review shall occur within 90 calendar days of receipt of the completed application. The SDE will be in contact the entity requesting approval within 30 days prior to the on-site program review.
4. The SDE shall issue a letter within 30 calendar days of the on-site program review that either confirms approval or lists issues and/or deficiencies that must be resolved prior to approval.
5. Program approval is valid for five (5) years.

## **SUBSEQUENT APPROVAL PROCESS**

The Private School or Facility Special Education Services Program Approval Procedure requires that a private school or facility be approved by the Idaho State Department of Education every five (5) years. Once approval is obtained, each special education program need only submit a renewal application for each of the subsequent four (4) years. If the private school or facility cannot maintain accreditation or licensing approval during the interim years, the SDE will revoke approval. Approval can be reinstated when the private school or facility corrects the identified deficits.

The Private School or Facility Application Checklist sets forth the documentation that is required to be submitted with the application to the SDE by October 15 of each year. In addition, the private school or facility shall submit an additional description of educational services under the following conditions:

- a. If the description of services outlined in the initial application packet has changed, a new description of services must be submitted within three (3) business days.
- b. An updated description of services must be submitted at least once every five (5) years.



- c. At other times as requested by the SDE.

## **APPEAL PROCESS**

Any private school or facility aggrieved by the Idaho State Department of Education's final decision may appeal that decision to the Idaho State Board of Education following the provisions set forth in the Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01 et seq.

**PLEASE NOTE:** Receiving Private school or Facility Special Education Program Approval from the Idaho State Department of Education does not guarantee or imply that an Idaho LEA or the Idaho State Department of Education will contract or provide payment for any services. The approval procedure and the funding procedure are two distinct and separate processes.